



CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF "98"

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10 April 2007

Local Boundary Commission
Division of Community Advocacy
Department of Commerce, Community, and Economic Development
550 West Seventh Avenue - Suite 1770
Anchorage, Alaska 99501

Subject: Comments to Local Boundary Commission Proposed Rulemaking

Dear Mr. Hargraves,

Regulations promulgated by the Local Boundary Commission should aim to maximize local self-government for Alaskan communities and encourage formation of borough governments rather than discourage it from consideration. We find that a number of the proposed changes to the regulations currently utilized by the Commission push us away from these goals. Our comments from the City of Skagway for each revision of concern follow:

3AAC 110.045(b) and 3AAC 110.060(b)(1) – Legislative intent has been to avoid using a one size fits all strategy for consideration and formation of new boroughs. Requiring a two-community minimum standard and use of the model borough boundaries as the starting point in an initial application for incorporation eliminates many potential opportunities for communities. Many communities currently considering the establishment of a borough would be precluded from even entering into the process effectively under these proposed changes.

The proposed regulation regarding the "model borough boundaries" would make it impossible for a group of citizens to carefully and thoughtfully develop a petition to incorporate a borough, fully supported by the people in the proposed borough, to achieve borough status solely because the proposed area did not conform to the "model borough boundaries." The proposed regulation is nothing more than a effort by the staff to administratively give the hypothetical model borough boundaries the force of law, which, in our view, contravenes the Alaska Constitution and the Alaska Supreme Court's consistent decisions saying that the LBC should consider the uniqueness of each petition. We have the same constitutional concerns regarding the "two communities" standard. The Alaska Constitution does not put any such limitation on the formation of boroughs.

3AAC 110.570 – Decisional meetings of the Commission, especially those concerning borough formation, need to be public events. Open government best serves the will of the people. Trust in the Commission process will suffer by limiting public participation and knowledge of Commission deliberations. It is also important to note that Alaska Statue 44.62.310(A) does not permit the LBC to

participate in executive sessions in the conduct of its decisional meetings. We believe there are constitutional problems with adopting a regulation that removes the decisional process of a constitutionally created body from the public view. It seems only obvious that no person who consents to serve on the LBC should be discomforted by providing his or her opinions and decision in public.

3AAC 110.150(6) – Last year legislation was passed that requires both parties involved with an annexation approve the action separately. Community self-determination depends on upholding the legislation that this proposed rulemaking ignores. It may be that the LBC staff disagrees with the legislation, but that is not a reason to attempt to avoid it or circumvent it through the regulatory process. If this is truly important to the LBC, the LBC should work with the legislature and the many potentially affected people and communities.

Based on concerns of the public trust and the negative effects these proposed rules will have on encouraging communities to form new boroughs, we ask that these regulations be scrapped and reconsidered in a process that better reflects the diversity of our communities in Alaska. A delay in these actions would cause no harm and further reflection in their design could greatly benefit our communities. Senator Lesil McGuire says it best in her letter to the Governor Palin, "After weighing the nature of these issues surrounding the LBC and its regulation package, I request that you ask the Local Boundary Commission to pull their proposed regulations for further development and internal review. ...No reasonable necessity will be abridged if they are not implemented at this time."

As a suggestion, the Local Boundary Commission should better address the regulations that surround the use of dissenting opinions offered as part of their decisional process. A petitioner should be able to rebut incorrect information presented to the LBC and dissenting opinions should not be used against future borough petitioners.

Sincerely,

A handwritten signature in dark ink, appearing to read "Alan Sorum", written in a cursive, flowing style.

Alan Sorum – City Manager

Cc: Governor Sarah Palin
Senator Lesil McGuire
Senator Albert Kookesh
Representative Bill Thomas
Mayor Tim Bourcy
Skagway Borough Petitioner's Representative Stan Selmer